

Appl'n. No.: 09/505,556  
 Amendment  
 Response to Office Action of July 14, 2004

# REMARKS/ARGUMENTS

## Arguments in Response to the Rejected Claims

Claims 4-14, 71-82, 89-94, and 107-123 remain in this application.

The Examiner rejected claims all pending claims under 35 U.S.C. §112, second paragraph, stating that they are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Examiner rejected claims 4, 7, 71, 72, 80, 89, 117 and 119, stating that the limitations "can be" and "can be used" as recited in the claims are not positive limitations. In response, Applicant has amended each of these claims by substituting the phrases "can be" or "can be used", as the case may be, with alternative language. Accordingly, claims 4, 7, 71, 72, 80, 89, 117 and 119, as amended, do particularly point out and distinctly claim the subject matter which applicant regards as the invention. Withdrawal of the rejection to these claims is requested.

Claim 4 was rejected on the additional ground that it recites the limitation "the audio portion/said audio portion," and that there is an insufficient antecedent basis for this limitation in the claim. In response, Applicant has amended the limitation to refer to "an audio portion."

Claim 7 was rejected on the additional ground that the limitation "said audio information" lacked an antecedent basis. In response, Applicant has amended the limitation to refer to "said audio signal" - a limitation that is present in the preamble.

Claims 7, 9 and 10 were rejected on the grounds that each recites the limitation "said first digital signal," for which there is an insufficient antecedent basis. In response, Applicant has amended the limitation in independent claim 7 from "wherein a first of said plurality of digital signals . . ." to "wherein a first digital signal of said plurality of digital signals. . ." This provides a more clear recitation of the antecedent basis in claim 7. Claims 9 and 10 depend from claim 7, and accordingly, an antecedent basis is present for these claims as well.

Appl'n. No.: 09/505,556  
 Amendment  
 Response to Office Action of July 14, 2004

Claim 13 was rejected on the grounds that the limitation "said audio signal audio" was unclear. In response, Applicant has amended this limitation by deleting the second occurrence of the word "audio."

Claims 71 and 80 were rejected on the grounds that each recites the limitation "the difference between..." - a limitation for which the Examiner said that there was an insufficient antecedent basis. In response, Applicant amended both of these claims so that this limitation now reads "a difference between."

Claim 89 was rejected on the ground that the limitation "said audio portion/the audio portion" lacked a sufficient antecedent basis. In response, Applicant amended the limitation "said audio portion" to read "an audio portion."

Claims 89-91, 93-94 and 108 were rejected on the grounds that each recites the limitation "said additional audio information" - a limitation for which the Examiner said there is insufficient antecedent basis. In response, Applicant amended each of claims 89-91, 93, and 94 to replace the limitation "audio information" with the limitation "audio data."

As to claim 108, however, Applicant notes that the limitation "said additional audio information" does not appear in this claim. Rather, the limitation "said additional audio data" already appeared in claim 108, and it is noted that an antecedent basis for this limitation appears in both claims 4 and 89 from which this multiple-dependent claim 108 depends. Thus an amendment to claim 108 is not required.

Claim 107 was rejected on the grounds that it recites the limitation "the audio signal data" - a limitation for which the Examiner stated that there is insufficient antecedent basis. In response, Applicant amended the limitation "deriving from the audio signal data, comprising" to read "deriving data from the audio signal, said data comprising. . ." It is believed that this amendment provides a more clear recitation of the limitations "audio signal" and "data."

Claim 107 was further rejected on the grounds that the limitation "said additional audio information" lacked a sufficient antecedent basis. As a preliminary matter, it should be noted that this claim does not contain the limitation "said additional audio information." However, it is believed that the Examiner intended to refer to the limitation "said audio

Appl'n. No.: 09/505,556  
 Amendment  
 Response to Office Action of July 14, 2004

information," i.e., without the word "additional." In response, Applicant amended this limitation to read "said audio signal" - a limitation for which there is an antecedent basis.

Claim 107 was further rejected on the grounds that it recites the limitation "said first digital signal," for which the Examiner said that there is insufficient antecedent basis. In response, Applicant amended the limitation "wherein a first of said plurality of digital signals" to read "wherein a first digital signal of said plurality of digital signals."

Claim 117 was rejected on the grounds that the limitation "the difference between..." lacked a sufficient antecedent basis. In response, Applicant amended that limitation to read "a difference between . . ."

Claim 119 was rejected on the grounds that the limitations "the audio portion" and "said first digital signal" lacked a sufficient antecedent basis. In response, Applicant amended these limitation to read "an audio portion" and "said two channel representation," respectively.

Claim 120 was rejected on the grounds that the limitation "said first digital signal" lacked a sufficient antecedent basis. In response, Applicant amended this limitation to read "said two channel representation."

As to the remaining rejected claims, the Examiner did not specify the basis for the rejections, other than to state that they were "too indefinite to examine against art because of all of the 112 second problems stated above." In view of the amendments discussed above, however, Applicant believes that the remaining rejections have been addressed. Applicant therefore requests that the rejections be withdrawn.

#### Remarks Regarding the Amendments to the Claims

In addition to the above-described claim amendments, Applicant made additional amendments to certain claims. Specifically, Applicant has inserted additional amendments (not addressed above) to claims 4, 7, 10, 11, 72, 73, 77, 78, 81, 89, 91, 111, 114, 116, 119, and 123. The nature of these amendments are self-evident and were not made for patentability reasons or in response to any remarks by the Examiner, but rather, were made to more clearly define the inventions or to correct typographical errors, as the case may be.

Appl'n. No.: 09/505,556  
Amendment  
Response to Office Action of July 14, 2004

### Suggested Re-Numbering of the Claims

The file history for this matter has involved two prior amendments, each of which included revisions the claims. Moreover, some of the claim revisions/additions involved the insertion of multiple dependent claims. The file history has further involved a response to a restriction requirement wherein certain claims were cancelled without prejudice to later prosecution. (Note however that the present amendment does not involve either the cancellation of any claims or the addition of any new claims.)

Because of the requirement that new claims be assigned sequential claim numbers, and because some of the previously-amended claims are in multiple-dependent form, this has resulted in a current set of numbered claims that may be somewhat difficult to track in their originally-numbered form. In the event that the Examiner agrees that the application is now in a condition for allowance, it will be necessary to re-number the claims.

Although an applicant is not normally required to re-number the pending claims, Applicant nevertheless has attached an Appendix which includes the pending claims as renumbered according to a suggested re-numbering scheme. These claims are presented in "clean" form (and without the claim status) with the exception of the original claim numbers which appear in brackets ("[ ]") adjacent to the new, recommended claim numbers. This Appendix is presented with the hope that this may facilitate review by the Examiner.

### Information Disclosure Statements

Applicant has filed two (2) Information Disclosure Statements (IDS). One was filed on or about June 19, 2000 and the other was filed on or about August 10, 2001. In Applicant's first amendment, dated October 14, 2003, Applicant stated that there was no indication that these IDS's had been considered and requested consideration thereof. Having received no indication of consideration of these IDS's, Applicant again requested their consideration in Applicant's second amendment, dated April 19, 2004.


Appl'n. No.: 09/505,556  
Amendment  
Response to Office Action of July 14, 2004

Applicant still has not received any indication that these two IDS's have been considered. Accordingly, their consideration is requested.

**CONCLUSION**

For all the reasons advanced above, Applicant submits that the application is in a condition for allowance and that action is earnestly solicited.

Respectfully submitted,



Gary D. Mann  
Reg. No. 34,867


Dated: October 14, 2004

FITCH EVEN TABIN & FLANNERY  
21800 Oxnard St., Suite 780  
Woodland Hills, CA 91367

(818) 715-7025  
(818) 715-7033 (fax)

Certificate of Transmission/Mailing

I hereby certify that this correspondence is being facsimile transmitted to the USPTO via Fax. No. 703-872-9306, or is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 14, 2004.



Gary D. Mann

(Date)